IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 15 OF 1996

SHRI. VASANT MORESHWAR TEREDESAI
AGED : 50 years, Resident of
Dahivali, Taluka Karjat, District
Raigad.
[Head Clerk in Dupty R.T.O. Office
Pen, District Raigad at present under
Suspension] .. .. Appellant / Accused

Versus

The State of Maharashtra .. .. Respondents

Shri. Shirish Gupte i/b Shri. S.V. Kotwal for the Appellant / Accused.
Shri. A.S. Gadkari, Addl. Public Prosecutor for the State.

CORAM : S.K. SHAH, J.
DATED : 28.7.2004

ORAL JUDGMENT :

1. At the outset the Learned Counsel representing the appellant submits that he has no case on merits to challenge the order of conviction of the appellant

for the offences punishable under Section 161 of the Indian Penal Code and under Section 5(1) (d) r/w section 5(2) of the Prevention of Corruption Act, 1947. He, however, vehemently submits that the order of sentence which was passed by the Trial Court to suffer R.I. for one year and to pay fine of Rs.500/-, in default to suffer S.I. for three months on each count would be too harsh looking to the present condition of the appellant. He submits that the appellant has retired long back. He has lost all the retiral benefits. Today he is 66 years of age and suffering from heart disease and since have lost all the retiral benefits, it is difficult for the appellant to survive. He also further submits that the incident is dated 7.6.1987, the punishment was awarded on 8.12.1995 and, the matter today is more than 16 years old.

2. I have heard the learned Additional Public Prosecutor for the State.

3. This is a trap case. There was a demand of Rs.500/- made by the appellant, who was working in the R.T.O. department, for clearing the auto rickshaw licence. On completion of the procedure the appellant was charge-sheeted and was tried and convicted as above. The conviction was under the Old Provisions of the Prevention of Corruption Act, 1947, which prescribes minimum sentence for one year with a proviso empowering the court to pass the lesser

sentence than one year with fine.

4. Considering the aforesaid facts and particularly the appellant has lost all the retirement benefits which itself was sufficient punishment for his deeds and since he has been suffering from the heart disease and has no other source of income. I think that this is a fit case where leniency should be shown to the appellant. Hence order.

ORDER

1. The appeal is partly allowed.

2. The order of conviction recorded by the Trial Court against the appellant - Accused Vasant Moreshwar Teredesai for the offences punishable under Section 161 of the Indian Penal Code and under Section 5(1) (d) r/w section 5(2) of the Prevention of Corruption Act, 1947 is hereby maintained.

3. The sentence of one year and fine of Rs.500/-, in default to suffer S.I. for three months on each count is, however, modified as under-

4. The appellant is sentenced to suffer S.I. till rising of the Court on both the counts and to pay fine of Rs.5000/-[Rupees five thousand only] on each count, in default to suffer S.I. for three months on each count.

[S.K. SHAH, J.]

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For the reasons separately recorded in the judgment following order is passed:-

ORDER

1. The appeal is partly allowed.

2. The order of conviction recorded by the Trial Court against the appellant - Accused Vasant Moreshwar Teredesai for the offences punishable under Section 161 of the Indian Penal Code and under Section 5(1) (d) r/w section 5(2) of the Prevention of Corruption Act, 1947 is hereby maintained.

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[S.K. SHAH, J.]